under § 1.111, the appeal will stand dismissed.

(c) *Petition not granted and appeal maintained.* A decision refusing to grant a petition under § 1.181 of this title to designate a new ground of rejection in an examiner's answer will provide a two-month time period in which appellant may file only a single reply brief under § 41.41.

(d) *Withdrawal of petition and appeal maintained.* If a reply brief under § 41.41 is filed within two months from the date of the examiner's answer and on or after the filing of a petition under § 1.181 to designate a new ground of rejection in an examiner's answer, but before a decision on the petition, the reply brief will be treated as a request to withdraw the petition and to maintain the appeal.

(e) *Extensions of time.* Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications and § 1.550(c) of this title for extensions of time to reply for *ex parte* reexamination proceedings.

[76 FR 72298, Nov. 22, 2011]

§ 41.41 Reply brief.

(a) *Timing.* Appellant may file only a single reply brief to an examiner's answer within the later of two months from the date of either the examiner's answer, or a decision refusing to grant a petition under § 1.181 of this title to designate a new ground of rejection in an examiner's answer.

(b) *Content.* (1) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other Evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other Evidence filed after the date of filing the appeal.

(2) Any argument raised in the reply brief which was not raised in the appeal brief, or is not responsive to an argument raised in the examiner's answer, including any designated new ground of rejection, will not be considered by the Board for purposes of the present appeal, unless good cause is shown.

(c) *Extensions of time.* Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications and § 1.550(c) of this title for extensions of time to reply for *ex parte* reexamination proceedings.

[69 FR 50003, Aug. 12, 2004, as amended at 76 FR 72298, Nov. 22, 2011]

§ 41.45 Appeal forwarding fee.

(a) *Timing.* Appellant in an application or *ex parte* reexamination proceeding must pay the fee set forth in § 41.20(b)(4) within the later of two months from the date of either the examiner's answer, or a decision refusing to grant a petition under § 1.181 of this chapter to designate a new ground of rejection in an examiner's answer.

(b) *Failure to pay appeal forwarding fee.* On failure to pay the fee set forth in § 41.20(b)(4) within the period specified in paragraph (a) of this section, the appeal will stand dismissed.

(c) *Extensions of time.* Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. *See* § 1.136(b) of this title for extensions of time to reply for patent applications and § 1.550(c) of this title for extensions of time to reply for *ex parte* reexamination proceedings.

[78 FR 17107, Mar. 20, 2013]

§ 41.47 Oral hearing.

(a) An oral hearing should be requested only in those circumstances in which appellant considers such a hearing necessary or desirable for a proper presentation of the appeal. An appeal decided on the briefs without an oral hearing will receive the same consideration by the Board as appeals decided after an oral hearing.

(b) If appellant desires an oral hearing, appellant must file, as a separate paper captioned ''REQUEST FOR ORAL HEARING,'' a written request for such hearing accompanied by the fee set forth in § 41.20(b)(3) within two months from the date of the examiner's